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In re Application of:
WORSLEY, David, Anthony, et al. : DECISION ON PETITION
U.S. Application No.: 10/516,484 : (37 CFR 1.137(b))
Int'l Application No: PCT/GB03/02340 :
Int'l Filing Date: 30 May 2003 :
Priority Date: 31 May 2002 :
Atty Docket No.: UWS-1-PCT :
For: ANTI-CORROSION PIGMENTS :

This decision is issued in response to applicant's Petition for Revival under 37 CFR 1.137(b) filed 05 September 2006. Applicants have paid the required petition fee.

BACKGROUND

On 30 May 2003, applicants filed international application PCT/GB03/02340. The application claimed an earlier priority date of 31 May 2002, and it designated the United States. On 11 December 2003, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for filing the basic national fee was thirty months from the priority date, i.e., 30 November 2004.

On 30 November 2004, applicants filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the small entity basic national fee. The application was assigned U.S. application number 10/516,484.

On 05 July 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 09 August 2006, the DO/EO/US mailed a "Notification Of Abandonment" (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the Notification Of Missing Requirements.

On 05 September 2006, applicants filed the petition for revival considered herein, with accompanying materials.

DISCUSSION

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). It is noted that item (4) does not apply to the present application.

With respect to item (1), the "required reply" is a proper response to the Notification Of Missing Requirements mailed 05 July 2005, that is, an oath or declaration in compliance with 37 CFR 1.497 and payment of the \$65 surcharge. Applicants' petition includes the authorization to charge Deposit Account No. 50-0765 for the required surcharge; the surcharge element of the required reply is therefore satisfied. However, the executed declaration submitted with the petition is not acceptable. Specifically, the signature page of the declaration includes a number of illegible, hand-written alterations which render the declaration defective. In order to complete the "required reply," applicants must submit a fully legible declaration that complies with 37 CFR 1.497 and which contains no uninitialialed and undated alterations. Until such declaration is submitted, item (1) above is not satisfied.

With respect to item (2), applicant has paid the required petition fee. Item (2) is therefore satisfied.

With respect to item (3), the petition includes the required statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." However, the petition is ambiguous with respect to what application this statement is directed to, and what application applicant is seeking to revive. Specifically, while the caption of the petition (including the page containing the statement of unintentional delay) lists the applicant, docket number, filing date, and title of the present application, 10/516,484, the application number is identified as 10/515,484 (a separate, unrelated U.S. application). Based on the ambiguity in the petition's caption, it cannot be concluded that applicant is seeking to revive the present application, or that the statement of unintentional delay contained in the petition is directed to the present application. Applicant must submit a revised petition, including a revised statement of unintentional delay, which clearly indicates that it is directed to the present application. Until such materials are provided, item (3) of a grantable petition is not satisfied.

CONCLUSION

Applicants' petition for revival under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any request for reconsideration should be entitled "Renewed Petition Under 37 CFR 1.137(b)" and it must include the materials

required to satisfy the outstanding requirements of 37 CFR 1.137(b), that is, an oath or declaration acceptable in compliance with 37 CFR 1.497, and a revised petition (including a revised statement of unintentional delay) that clearly identifies the application to which it is directed.

No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration



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